**COMMONWEALTH OF MASSACHUSETTS**
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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| Investigation by the Department on its own motion into the appropriate regulatory plan to succeed price cap regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' retail intrastate telecommunications services in the Commonwealth of Massachusetts | DTE 01-31 |

# COMMENTS OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC. REGARDING VERIZON'S JUNE 5, 2002, COMPLIANCE FILING


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# COMMENTS OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC. REGARDING VERIZON'S JUNE 5, 2002, COMPLIANCE FILING

## Introduction.

On May 8, 2002, the Department issued in Phase I of this case a decision that marks an important step in the implementation of the Department's long standing policy to establish the conditions for effective competition and to move telecommunications services from regulated pricing to market based pricing. Unfortunately, Verizon's June 5, 2002, "compliance" filing seeks to frustrate the Department's efforts by insisting on continued price regulation at current supra-competitive prices for business private line services to the detriment of Massachusetts consumers. At the same time, with respect to other services, Verizon's compliance filing seeks to extend the grant of market based pricing to retail services that do not satisfy the Department's requirement that such services be contestable by CLECs using unbundled network elements ("UNEs"). For the reasons discussed below, the Department should reject Verizon's June 5 filing on the ground that it fails to comply with the Department's Phase I Order in this case.

Further, the Department should require Verizon to comply with the Phase I Order to reduce intrastate special access prices; reject Verizon's attempt to relitigate the issue of whether

CLECs must use special access circuits to offer business services; reject Verizon's claim that all business services are contestable; and require Verizon to conform to the Department's price floor requirement. Finally, the Department should establish a process for further investigation of the issues described below.

**Comments.**

## I. VERIZON'S FAILURE TO PRICE INTRASTATE ACCESS AT UNE RATES VIOLATES THE DEPARTMENT'S PHASE I ORDER.

### A. THE DEPARTMENT REQUIRED VERIZON TO PRICE INTRASTATE ACCESS CIRCUITS AT UNE LEVELS.

In its Phase I Order, the Department stated that "special access services (the wholesale input that CLECs purchase to compete with Verizon's retail private line services) ***shall be priced in the same manner as UNEs****, i.e.*, incremental cost plus a reasonable mark-up for indirect costs." *D.T.E. 01-31 Phase I Order*, at 58 (emphasis added). The Department's reasoning for its requirement to price intrastate access at UNE prices was sound and unassailable: Verizon's current prices for special access services constitutes a barrier to entry which leads to Verizon retail prices that are above economically efficient levels. The Department stated:

> CLECs argue that special access pricing is a barrier to entry for CLECs that want to compete against Verizon's retail private line services because special access services impose higher costs on CLECs than are imposed on Verizon. The Department agrees. CLECs that seek to provide services in competition with Verizon's retail private line services incur economically-inefficient wholesale costs since the wholesale inputs (special access services) that the CLECs purchase are not priced at incremental cost; rather, these inputs, because of historical universal service policies, are priced well above incremental cost. The record shows that because there is a significant cost differential between Verizon's wholesale costs and potential entrants' wholesale costs, entrants may have difficulty exerting downward competitive pressure on Verizon's retail rates if Verizon raises retail prices above economically efficient levels (see Exh. ATT-2, at 11).

*Id*. at 61.

Notwithstanding the Department's Order and the soundness of its reasoning, Verizon states in its June 5 filing that it does not intend to price its intrastate access circuits at UNE levels as required by the Department. *Verizon Massachusetts D.T.E. 01-31 Phase I Compliance Filing* ("*Compliance Summary*"), at 3. Verizon literally rewrites the Department's Order in an effort to use words that allow Verizon to conclude that the Department did not really require Verizon to price its intrastate access circuits at UNE levels. Verizon states:

> With respect to Private Line services, the Department stated that Verizon MA could obtain pricing flexibility ***if it chose*** to reduce Intrastate Special Access rates to UNE levels.

*Id*. (emphasis supplied).

Verizon's words are not, however, the words that the Department used. The Department never said that Verizon had the right to *"choose"* to reduce its intrastate special access rates and never stated that Verizon could obtain pricing flexibility *"if"* it exercised a supposed right to chose. While the Department used several different verbal formulations to express its intrastate special access pricing requirements, none of those formulations match Verizon's language. At times the Department stated that intrastate special access prices "shall be priced" at UNE levels (*See D.T.E. 01-31 Phase I Order*, at 62 (line 17), 63); and at other times the Department stated that intrastate special access prices will be priced at UNE levels "before" Verizon is granted pricing flexibility for private line services. *Id*. at 62 (lines 8-10), viii. Verizon has latched onto the Department's use of the word "before" to create a right to choose pricing flexibility "if" Verizon lowers its special access rates. Unlike the word "if," however, the word "before" has a temporal component. The Department's use of the word "before" merely emphasizes that intrastate special access rates must be priced at UNE levels *prior to the time* that regulation of Verizon's retail prices is relaxed. If the Department had wanted to give Verizon a right to

choose pricing flexibility if Verizon elected to reduce the price of intrastate special access circuits, the Department would have so stated.

Given the Department's long-standing goals of establishing the conditions for effective competition and moving telecommunications services from regulated pricing to market based pricing, the Department should reject Verizon's self-serving interpretation of the Phase I Order and require Verizon to comply with the Department's intrastate special access pricing requirements.

### B. VERIZON'S ALTERNATIVE PROPOSAL FOR REGULATING THE PRICE OF SPECIAL ACCESS CIRCUITS SHOULD BE REJECTED.

Verizon's extraordinary position is a dramatic illustration of the advantages it enjoys in downstream retail markets as a result of its control of special access circuits at the wholesale level. Verizon has concluded that it prefers to remain price regulated in retail markets that rely on special access circuits as inputs, rather than compete at retail with carriers that face the same costs for special access that Verizon does. Stated another way, the only way a grant of pricing flexibility will allow Verizon to increase its retail rates is if Verizon's competitors must pay more than the cost that Verizon incurs for the network facilities necessary to compete.

Having failed to obtain pricing flexibility under conditions that would permit Verizon to raise its retail rates for private line services, Verizon now proposes "regulation" of private line services that would permit exactly that result. Verizon proposes that it be permitted to raise the price of its private lines services by a maximum of 15% every year. *Compliance Summary*, at 4. Given the supra-competitive prices that Verizon now charges AT&T for the special access circuits it needs to compete for private line services, it is hard for AT&T to oppose a Verizon increase in the market price for private line services. Nevertheless, AT&T supports the

Department's decision to price special access circuits at the same cost as Verizon incurs so that AT&T can compete for end users in the private line market on a level playing field with Verizon. As a result, retail costs would likely be driven down and not up. Indeed, there is little dispute that reduction in access charges produce reductions in retail prices. Even Verizon calculates that it will be forced by the market to reduce its retail rates if the access rates it charges to its competitors are lowered. *See Compliance Summary*, at 4-5, Exh. DTE-VZ-1-10.

The Department should reject Verizon's proposal to inflate still further prices for private line services. Instead, the Department should require Verizon to provide the special access circuits that CLECs need to compete with Verizon in the private line market at TELRIC, so that CLECs can drive down the retail price to the benefit of consumers.

### C. THE DEPARTMENT SHOULD REJECT ANY ATTEMPT BY VERIZON TO RELITIGATE THE ISSUE OF WHETHER AT&T AND OTHER CLECS MUST USE SPECIAL ACCESS CIRCUITS TO OFFER PRIVATE LINE AND OTHER BUSINESS SERVICES.

In the Phase I Order, the Department exercised its authority under G.L. c. 159, §14, to regulate the prices of the dominant carrier in the special access market. In footnote 6, on page 4 of its *Compliance Summary*, Verizon lets slip that it is not complying with the Department's Order on the ground that Verizon disagrees with the Department's determination that Verizon's rivals must use special access circuits to provide private line services.

> Verizon MA will further explain its position regarding the competitive nature of Private Line services and the ability of carriers to use UNEs to provide these services if these issues are raised by parties in their comments on the Plan or in a subsequent proceeding.

This is a first: a company subject to the powers of an administrative agency unilaterally rejecting the agency's findings, ignoring established procedures for seeking reconsideration and offering

to relitigate an issue it just lost – and more importantly – an issue on which it presented no evidence during the case.

The Department should reject any attempt by Verizon to relitigate the issue of whether AT&T and other CLECs must use special access circuits to offer private line and other business services. That was a major issue in this case, and AT&T devoted substantial resources to submit evidence on the reasons why AT&T must purchase special access circuits in order to provide private line and other business services. Indeed, all of the rebuttal testimony of AT&T's witness, Deborah Waldbaum, was devoted solely to this point. *See* Exh. ATT-3 (August 24, 2001 Testimony of Deborah S. Waldbaum). Verizon's response was, as AT&T noted in its initial brief, "deafening silence." *AT&T Initial Brief*, at 29. Verizon presented no evidence in response; indeed, Verizon did not even cross examine Ms. Waldbaum on that issue. Verizon's strategy was simple. It chose to ignore the issue in the hope that the Department would as well. The strategy backfired, and only now, after the Department has rendered its decision on the basis of uncontested evidence adduced by AT&T does Verizon want to offer evidence. If there were ever a situation where it is too late, this is it. A party cannot completely ignore a major issue in a case and then decide, after the decision, that it wants to litigate the issue. Such conduct is nothing less than an abuse of process.

## II. VERIZON'S CLAIM THAT ALL BUSINESS SERVICES (OTHER THAN ADMINISTRATIVE SERVICES) ARE CONTESTABLE USING UNES IS UNSUPPORTED AND, IN ANY EVENT, PATENTLY FALSE.

In its Phase I Order, the Department instructed "Verizon to identify in its Phase II filing, those retail business services, in addition to private line services, if any that are not contestable on a UNE basis." *D.T.E. 01-31 Phase I Order*, at 62, n. 39. With apparently no serious consideration, Verizon blithely proclaimed that "all of Verizon MA's retail Business services can

be replicated by competitors via UNEs." *Compliance Summary*, at 8. Verizon is wrong. Because of Verizon's UNE use restrictions, all of Verizon's retail business services, except certain services for small business, are not contestable using UNEs.

In her August 24, 2001, prefiled testimony, Ms. Waldbaum explained at length why Verizon's UNE use restrictions preclude the use of UNEs to provide telecommunications services at retail to business customers. Ms. Waldbaum's testimony made clear that AT&T must purchase special access circuits, rather than UNEs, to provide any bundle of business services that has commercial viability. *See* Exh. ATT-3, at 4. Indeed, as the Department recognized in its Phase I Order, a substantial part of AT&T's case relied upon the fact that AT&T's business services are provided over special access circuits. *D.T.E. 01-31 Phase I Order*, at 61. In other words, because of Verizon's UNE use restrictions, AT&T uses special access circuits to establish the transmission path to the customer premises *to provide dial tone service and all business services ancillary to dial tone service.* AT&T's use of special access circuits is not limited to business services that compete with Verizon's "private line" services.

Verizon's contention that there are no other business services that are not contestable with UNEs is accompanied by no factual support and flies in the face of Ms. Waldbaum's unrebutted testimony. Given the existing record in this case that demonstrates the inability of CLECs offering bundled business services to medium and large business customers to obtain UNEs, Verizon's unsupported assertion that all business services are contestable using UNEs cannot stand even casual scrutiny. At a minimum, if Verizon believes that there are certain specific business services that it offers for which CLECs can obtain UNEs without violating Verizon's UNE use restrictions, then Verizon should be required to identify those services and support its position.

Moreover, it should be clear that merely identifying large numbers of ancillary, or vertical services, that Verizon offers out of its switch does not address the issue of whether a competitor is able to provide a competing vertical service using UNEs. While it may be possible for a competitor to offer a competing vertical service using Verizon's *switch* UNE, that is irrelevant to the issue before the Department. If a CLEC cannot obtain an unbundled *loop* in order to offer that competing service (due to UNE use restrictions) either out of its own switch or out of a switch UNE provided by Verizon, then the vertical service is not contestable using UNEs.

"Tab C" to Verizon's Compliance Filing illustrates the foregoing point. Verizon lists large numbers of private line services and claims that they are contestable using UNEs. Some of the services are vertical services. While it may be true that an unbundled switching element provides that functionality, the CLEC still cannot compete for that private line service because it cannot obtain the UNE loop and transport elements *it needs to compete.* For example, AT&T provides these services out of its own switch; AT&T does not need unbundled switching from Verizon to provide the competing service. In order to offer a competing service, AT&T needs connectivity (the loop and transport) between its switch and the customer premise, and that is precisely what it cannot obtain from Verizon as a UNE due to Verizon's UNE use restrictions.

For other services on its Tab C list, Verizon states explicitly that they require UNE loops and impliedly represents that those loops are available. Nowhere, however, does Verizon indicate whether and under what circumstances use of those loops in an EEL configuration is precluded by Verizon's UNE use restrictions. In AT&T's experience, as documented in the unrebutted testimony of Ms. Waldbaum in this case, Verizon's UNE use restrictions preclude the use of loop-transport combinations for all such services. Verizon has not specified which

business retail services it lists in Tab B or Tab C which can be provided in a commercial context using UNE loops and transport without violating Verizon's own use restrictions. At a minimum, if Verizon represents that loops are available to CLECs seeking to contest a specific retail service, Verizon should be required to demonstrate that the use of such loops in a typical commercial context involving EELs would not violate its UNE use restrictions and thereby allow CLECs to obtain the necessary UNEs to compete with Verizon for that particular service.

In addition to retail services that require CLEC access to the local loop, every retail business service that requires IOF, dedicated transport, or multiplexers cannot be considered contestable using UNEs as long as Verizon maintains its overly broad definition of "no facilities" in order to refuse to build UNEs where "no facilities" are available. Verizon unilaterally defines a wide range of circumstances as "no facilities" and uses these situations to invoke its "no build" policy for UNEs.[1] This policy drives CLECs to purchase special access circuits in order to compete with Verizon on services for which Verizon only incurs TELRIC costs to build the same facilities. Verizon, therefore, should also be required to demonstrate that the UNEs necessary for services which Verizon claims are contestable can be obtained by CLECs without the application of Verizon's "no facilities" policy.

[1] For example, Verizon may treat facilities as not available, even when they are, in situations where the facilities are on copper and Verizon has a policy of moving service from copper to fiber.

## III. VERIZON'S PROPOSED PRICE FLOOR FILING DOES NOT SATISFY THE REQUIREMENTS OF THE DEPARTMENT'S PHASE I ORDER.

### A. VERIZON USES LANGUAGE TO DESCRIBE ITS PRICE FLOOR OBLIGATION THAT IS NOT CONSISTENT WITH THE DEPARTMENT'S ORDER.

In its Phase I Order, the Department stated that "the price floor should be equal to the UNE rates for the elements that make up the retail service, plus a mark-up for Verizon's retailing costs as reflected in the wholesale discount." *D.T.E. 01-31 Phase I Order*, at 91. In its *Compliance Summary*, however, Verizon describes this requirement in words that differ materially from those the Department used. Verizon states that its price floor filing "will include an analysis of the relevant UNE charges for a competitor providing a comparable service plus a retail overhead." *Compliance Summary*, at 5.

There are two parts to the Department's price floor requirement. The first part of the price floor relates to the cost of UNEs; the second part relates to the remaining costs of the retail service. Verizon's language differs from the Department's with respect to both parts.

With respect to UNE costs, Verizon should be required to include "the UNE rates for the elements that make up the retail service," as stated by the Department. *D.T.E. 01-31 Phase I Order*, at 91. Verizon should not be able to limit the UNE costs only to those UNEs that a particular competitor uses. The purpose of a price floor is to ensure that Verizon cannot carry out a price squeeze against equally (or more) efficient rivals in the retail provision of the business service at issue. The relevant price floor, then, is not the cost of only those UNEs that a competitor may purchase from Verizon, but rather the cost that Verizon itself incurs in the provision of the service. Thus, Verizon should ensure that its retail price covers the economic costs that it, Verizon, incurs at both the upstream and retail stages of providing the service. To

do so, Verizon should ensure that the price it seeks covers the UNE cost of all the elements it uses in the provision of the service regardless of the number of elements used by a competitor.

With respect to the non-UNE costs, Verizon uses the term "retail overhead." *Compliance Summary*, at 5. The Department, however, was very specific in its Order. The Department required Verizon to use the wholesale discount to reflect the non-UNE costs that Verizon incurs in offering the retail service. While Verizon may intend that its language "retail overhead" be shorthand for what the Department ordered, that is not clear from Verizon's filing. Verizon's filing should reflect the Department's requirement that the non-UNE portion of the costs of providing the retail service should be calculated by using the wholesale discount.

In sum, unless Verizon is made to cover the costs that it incurs for providing any particular business service, then it will be possible for Verizon to charge an amount less than that which equally efficient rivals can economically charge, thereby damaging or eliminating competition for that service. To rectify the flaws in the current Verizon filing, Verizon should use the same language as the Department.

### B. VERIZON'S RELIANCE ON THE DEPARTMENT'S PRICE FLOOR RULING IN D.P.U. 94-185 IS NOT AUTHORIZED BY THE DEPARTMENT'S PHASE I ORDER.

Under Tab A of its filing, Verizon includes a document entitled "Verizon Massachusetts Alternative Regulation Plan" ("Plan"). On page 4 of the Plan, under Paragraph P, Verizon states, "Price floor rules that the Department established in D.P.U. 94-185 remain in effect, except as modified by the Department in its Phase I Order to D.T.E. 01-31." Nothing in the Phase I Order, however, authorized such a provision in the Plan.

AT&T was pleased that the Department addressed one important price floor issue in the Phase I Order. Nevertheless, AT&T respectfully submits that the issue of price floors in general

remains an issue that should be further addressed in Phase II of this proceeding. In its June 21, 2001, Interlocutory Order on Scope ("Scope Order"), the Department included the price floor issue among those that it would consider during Phase II of this proceeding. The Department stated that "[a]t the start of the second phase, the Department will address whether the additional categories that intervenors have argued should be included in the scope of this proceeding (*e.g.* universal service funding, *price floors*, access reform, a full rate case or earnings review, etc.) will be part of the second phase." *Scope Order*, at 22 (emphasis added). Thus, the Department has not addressed whether the price floor rules in D.P.U. 94-185 should continue, except as modified in Phase I, or whether other modifications are warranted. Indeed, it is not clear at all what Verizon believes the price floor rule from D.P.U. 94-185 means in light of the Department's Phase I Order in this docket.

At a minimum, Verizon should be required to specify which services are subject to the price floor rules in D.P.U. 94-185, and which services are subject to the price floor rules in the Phase I Order of this docket, and AT&T should be given an opportunity to contest Verizon's position. In that way, a full record can be developed on the appropriate price floor for each category of Verizon's service.

## IV. VERIZON'S PROPOSED REDUCTION OF SWITCHED ACCESS CHARGES COMPLIES WITH THE DEPARTMENT'S PHASE I ORDER AND SHOULD GO INTO EFFECT IMMEDIATELY; PHASE II OF THIS PROCEEDING SHOULD ADDRESS THE NEED TO FURTHER REDUCE INTRASTATE SWITCHED ACCESS CHARGES TO COST.

AT&T has reviewed Verizon's proposal to bring its intrastate switched access charges into conformity with interstate switched access levels and determined that Verizon's proposed rates substantially comply with the Department's Phase I Order. Accordingly, Verizon's

proposed rates should go into effect immediately. There is no need to delay such reductions pending the outcome of the separate issues in Phase II of this case.

While reduction of Verizon's intrastate switched access charges to interstate levels is an important first step, it does not solve the problem of economic inefficiency created by the establishment of switched access charges above cost. Dr. Mayo testified in this case regarding the need to move access charges to cost, and the Department in its Scope Order indicated that it would address access charges in Phase II of this proceeding. *See* Exh. ATT-1 (August 24, 2001 Mayo Testimony) at 12-13; *Scope Order*, at 22. In Phase II, the Department should develop a record on the basis of which it can determine the appropriate long term rate for switched access charges. AT&T believes that, after the Department has considered all the evidence, the Department will find that switched access charges should be set at incremental (TELRIC) costs, because such levels are economically efficient and advantageous to consumers. Indeed, the Rhode Island Public Utilities Commission has indicated its desire to establish intrastate access rates in that state "in accord with the final UNE rates" established in Rhode Island. *See Report and Order*, In Re: Review of Bell Atlantic-Rhode Island TELRIC Studies: Investigation of Access Rates, Docket No. 2681 (issued May 4, 2000), at 1-2. A copy of this decision is attached.

## V. VERIZON'S PROPOSED SERVICE QUALITY STANDARDS REQUIRE FURTHER REVIEW.

Verizon has proposed a Service Quality Plan that is similar in substantial respects to the plan adopted in D.P.U. 94-50, with certain modifications reflecting a change from an indexed price cap formula. There has been no investigation to determine whether this plan is appropriate in the context of a system of regulation that ties Verizon's performance standards for wholesale,

carrier customers to its performance for its retail customers. Indeed, there has been no investigation at all regarding Verizon's proposed Service Quality Plan.

At a minimum, further investigation is required to determine whether the measures in Verizon's Retail Service Quality Plan will incent Verizon to perform at a high level as measured by its retail performance measures in the C2C metrics. This is important to CLECs because the standard for Verizon's wholesale performance is parity with retail as measured in the Performance Assurance Plan. In addition, further investigation is required into Verizon's performance data collection and reporting. For example, it was learned in D.T.E. 01-34 that some retail customers are given the opportunity to call Verizon with an "information" ticket after the installation of a special service. As a consequence of this practice, there could be installation troubles that are never captured in the Verizon retail metrics. Verizon's data gathering and reporting practices are not the only reasons that the Department should conduct further investigation prior to adopting new retail service quality standards for Verizon. The Department also needs to conduct a detailed evaluation of whether Verizon's modified Service Quality Plan or some other service quality plan should be adopted.

## VI. THE DEPARTMENT SHOULD ESTABLISH WITH CLARITY THE PROCESS THAT IT CONTEMPLATES FOR THIS COMPLIANCE FILING.

The complexity of compliance issues associated with important policy directives necessitate substantive factual review of Verizon's filing. AT&T has assumed that the Department intends these comments to identify issues that warrant further investigation. AT&T has not had the time and – more importantly – the access to information from Verizon to determine the extent to which Verizon's filing complies and does not comply with the Department's directives in its Phase I Order.

The Department established in its Phase I Order an important principle for deregulating Verizon's retail prices. That principle requires Verizon to demonstrate that the services for which it seeks pricing flexibility are contestable using UNEs. AT&T has adduced substantial evidence in this case that CLECs require loop-transport combinations of UNEs to offer competing business services and are unable to obtain them due to Verizon's UNE use restrictions. Verizon has made an unsupported, conclusory statement that all its business services are contestable using UNEs. If such a statement were accepted without proof, it would render the Department's newly established principle useless and ineffective. In order to implement the Department's principle, Verizon therefore must come forward with detailed evidence as to each specific service for which it seeks pricing flexibility to demonstrate that such services can be offered by CLECs using UNEs in a manner that allows them to certify that they satisfy Verizon's use requirements.

Moreover, there are many details about Verizon's compliance filing that must be answered in order to understand what Verizon is proposing. For example, Verizon lists as "Business Services Subject to Market Based Pricing" in Tab A, Attachment B, many of the same services it lists in Tab C, which – according to its *Compliance Summary* – are "Private Line" services. *See Compliance Summary*, at 3 ("Tab C of the filing identifies Verizon MA's Private Line offerings"). Indeed, even the tariff references are the same for the "market based pricing" business services listed in Tab A, Attachment B, and the "private line" services listed in Tab C. At a minimum, more explanation is required from Verizon as to which services it is proposing for pricing flexibility and which it is proposing to be price regulated. Further proceedings, including discovery, are necessary in order to obtain an adequate explanation of what Verizon is proposing.

Only after it is understood what Verizon proposes can the Department and the parties determined whether Verizon has complied with the Department's Phase I Order. For example, one interpretation of Verizon's filing suggests that Verizon proposes that vertical and ancillary business services are price regulated when offered in conjunction with "private line" services (Tab C) and are market based when offered in conjunction with POTS service ("plain old telephone service") (Tab A, Attachment B). If that is the case, Verizon is assuming that its competitors use special access circuits to compete only when Verizon uses "private line" services. That may not be – and is likely not – the case. In order to comply with the Department's principle that pricing flexibility be granted only in markets that are contestable using UNEs, Verizon must identify not only its "private line" services, but also any retail services for which it forces its competitors to use special access circuits, even if Verizon provides those retail services over POTS facilities.

Some items in Verizon's proposed plan are not in dispute, such as Verizon's proposed rate changes for switched access, and should go into effect immediately. However, further process, including filings, discovery and potentially hearings if necessary are required to understand Verizon's filing and to ensure that the important principles in the Department's Phase I Order are properly implemented. Phase II should also include the issues that AT&T raised in its Motion For Clarification filed on May 28, 2002.

**Conclusion.**

For the reasons set forth above, the Department should reject Verizon's June 5 filing on the ground that it fails to comply with the Department's Phase I Order in this case. Further, the Department should require Verizon to comply with the Phase I Order to reduce intrastate special access prices immediately; reject Verizon's attempt to relitigate the issue of whether CLECs

must use special access circuits to offer private line business services; reject Verizon's claim that all business services are contestable using UNEs and require Verizon to conform to the Department's price floor requirement.

Going forward, the Department should require further explanation from Verizon, permit discovery, and allow AT&T and other parties the opportunity to file additional comments or testimony, if warranted. Further, the Department should hold hearings on issues as to which the facts are in dispute. Finally, the Department should establish a process for resolving the issues it reserved for Phase II in its *Scope Order*, as described in AT&T's May 28, 2002 Motion For Clarification, including the anti-competitive effects of Verizon's UNE use restrictions and its "no facilities" policy.

Respectfully submitted,

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